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To: The Honorable Kevin J. Martin Phone: 202-418-2345

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Fax: 1-866-418-0232

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From: Mr. Larry Conrad

Phone: 850-644-0066

Company: Florida LambdaRail

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December 7, 2005

Via Facsimile and U. S. Mail to The Honorable Kevin J. Martin

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Mr. Martin:

This letter is to provide comments to the August 2005 Federal Communications Commission order, published in the October 13, 2005 Federal Register, which extends the provisions of the 1994 Communications Assistance for Law Enforcement Act (CALEA) to institutions of higher education and the networks they administer and use to assist their education and research missions. I am writing as Chair of the Board for the Florida LambdaRail, LLC (FLR) which provides advanced network support among participating university campuses and with National LambdaRail (NLR). FLR member universities provide this regional optical network infrastructure among campuses in addition to managing the local campus networking.

We are concerned with the implications of implementing this proposed rule.

FLR institutions support the comments filed by the Higher Education Coalition and submit these comments to clarify that the university operated regional optical networks, such as FLR, which support research universities would face similar barriers to compliance as identified in the HEC comments.

FLR is a collaborative effort among public and private research universities in Florida. Institutions who participate in FLR include Florida Atlantic University, Florida Institute of Technology, Florida International University, Florida State University, Nova Southeastern University, University of Central Florida, University of Florida, University of Miami, University of North Florida, and University of West Florida.

Our universities have a history of working with law enforcement, and have provided CALEA compliance the few instances our institutions have received such an order. It is our intention to continue to work cooperatively and quickly to meet the needs of law enforcement.

It is our contention that changes of this magnitude may exceed the scope of CALEA as defined, and should have action by Congress. It is also our contention that our networks are not generally available to the public, and meet the criteria for private networks which are specifically excluded by legislative action.

These are areas for the courts to decide. Setting those aside, we have other concerns. The proposed rulemaking mandates full compliance for newly covered entities by May of 2007 but does not provide

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The Honorable Kevin J. Martin
Chairman
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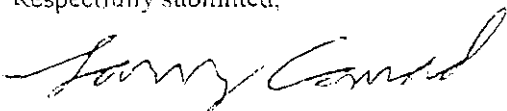
specifications for what constitutes compliance. We request that the time for compliance not be set until the specifications are defined. At this point, we cannot determine if vendors can supply equipment that is compliant with the proposed rule. Lacking such specifications, we can envision compliance scenarios ranging from complete replacement of all routers and switches to working directly with trusted network operators on each particular situation. If it's the former and even if the vendors can deliver compliant equipment in a timely manner, we still have to assess the budgetary impact of this rulmaking. An unfunded mandate of several millions of dollars per campus for the ten universities in Florida who participate in Florida LambdaRail will be a difficult burden for the universities and the FLR to bear.

Given the low number of requests our universities have seen, we believe that we can fully meet CALEA's goal of giving law enforcement access to Internet-based communications by officers working directly with trusted network operators to identify the best way to monitor or intercept *particular communications in each situation*. Network operators would do the necessary monitoring and give the results to law enforcement (with appropriate attention to custody chains and other evidentiary issues). This approach would make it unnecessary to install the equipment necessary for ubiquitous tap points or devices as required in the current form of the proposed regulations. While the cost *per request* may be more than the proposed method it does not require the substantial changes to how ISPs and other network facility operators design, equip, and manage their networks that would be necessary in the proposed rule change.

The EDUCAUSE CALEA Frequently Asked Questions site states that the figures for the number of wiretap requests for 2004 are 1,714 for all local, state, and federal courts and an additional 1,754 under Foreign Intelligence Surveillance Act (FISA) courts (national security). In an informal survey of 700 campuses, there were no reports of wiretap orders being served in 2003. Law enforcement reports that there were "a few" served on campuses under FISA. By any account, the number of wiretap orders on campuses is extremely small. We believe that this clearly indicates that the value proposition for spending such immense resources on wholesale university network facility upgrades is extremely low and therefore should be significantly reduced, if not altogether abandoned.

We urge the Commission to suspend the compliance date of May 2007 until these questions and issues can be resolved. We stand ready to assist, and recommend the Commission include representatives of the entities affected by the expanded definitions in developing the specifications so that the overall goal can be reached.

Respectfully submitted,



Larry Conrad
Chair, Florida LambdaRail, LLC

ldc